

# Glynn County School District

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Performance Audit on Compliance with the Federal Universal Service  
Fund Schools and Libraries Support Mechanism Rules  
USAC Audit No. SL2014BE011

## TABLE OF CONTENTS

Executive Summary .....	1
Audit Results and Recovery Action.....	3
USAC Management Response .....	6
Purpose, Scope, Background and Procedures .....	7
Detailed Audit Findings .....	9
<b>Finding #1:</b> 47 C.F.R. § 54.503(a) (2011)–Failure to Demonstrate Competitive Bidding Process Was Fair and Open .....	9
<b>Finding #2:</b> 47 C.F.R. § 54.511(a) (2011)-Failure to Demonstrate The Most Cost-Effective Bid Proposal Was Selected & Price Was Not the Primary Factor During Bid Evaluation ....	12
<b>Finding #3:</b> <i>FCC Form 472 Instructions</i> , at 6 (2007)-Beneficiary Over-Invoiced SLP for Equipment Not Requested.....	17
<b>Finding #4:</b> 47 C.F.R. § 54.504(d)(2) (2011)-Beneficiary Over-Invoiced SLP for the Higher Cost of Substituted Equipment .....	19
<b>Finding #5:</b> 47 C.F.R. § 54.507(d)-Beneficiary Over-Invoiced SLP for Equipment and Services Received Outside the Funding Year.....	21
<b>Finding #6:</b> 47 C.F.R. § 54.514(b) (2011)-Untimely Reimbursement From Service Provider (Network Service Consultants, Inc.).....	22
<b>Finding #7:</b> 47 C.F.R. § 54.514(b) (2011)-Untimely Reimbursement From Service Provider (StormWood Technologies) .....	23
Criteria .....	25



## EXECUTIVE SUMMARY

March 2, 2016

Howard S. Mann, Superintendent  
Glynn County School District  
1313 Egmont Street  
Brunswick, GA 31520

Dear Mr. Mann:

The Universal Service Administrative Company (USAC or Administrator) Internal Audit Division (IAD) audited the compliance of Glynn County School District (Beneficiary), Billed Entity Number (BEN) 127476, using regulations and orders governing the federal Universal Service Schools and Libraries Program, set forth in 47 C.F.R. Part 54, as well as other program requirements (collectively, the Rules). Compliance with the Rules is the responsibility of the Beneficiary's management. IAD's responsibility is to make a determination regarding the Beneficiary's compliance with the Rules based on the audit.

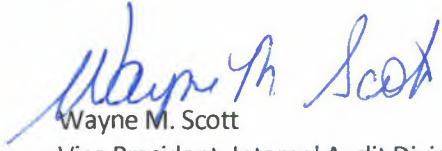
IAD conducted the audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States (2011 Revision, as amended). Those standards require that IAD plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on the audit objectives. The audit included examining, on a test basis, evidence supporting the competitive bidding process undertaken to select service providers, data used to calculate the discount percentage and the type and amount of services received, physical inventory of equipment purchased and maintained, as well as performing other procedures IAD considered necessary to make a determination regarding the Beneficiary's compliance with the Rules. The evidence obtained provides a reasonable basis for IAD's findings and conclusions based on the audit objectives.

Based on the test work performed, our examination disclosed seven detailed audit findings (Findings) discussed in the Audit Results and Recovery Action section. For the purpose of this report, a Finding is a condition that shows evidence of non-compliance with the Rules that were in effect during the audit period.

Certain information may have been omitted from this report concerning communications with USAC management or other officials and/or details about internal operating processes or investigations. This report is intended solely for the use of USAC, the Beneficiary, and the FCC and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of those procedures for their purposes. This report is not confidential and may be released to a requesting third party.

We appreciate the cooperation and assistance extended by you and your staff during the audit.

Sincerely,



Wayne M. Scott  
Vice President, Internal Audit Division

cc: Chris Henderson, USAC Chief Executive Officer  
Craig Davis, USAC Vice President, Schools and Libraries Division



<b>Audit Results</b>	<b>Monetary Effect of Audit Results (A)</b>	<b>Overlapping Recovery<sup>1</sup> (B)</b>	<b>USAC Recovery Action (A) - (B)</b>
<b>Finding #1: 47 C.F.R. § 54.503(a) (2011)– Failure to Demonstrate Competitive Bidding Process Was Fair and Open.</b> The Beneficiary's request for services in its Request for Proposals (RFP) included requests for services from specific service providers.	\$152,408	\$0	\$152,408
<b>Finding #2: 47 C.F.R. § 54.511(a) (2011)– Failure to Demonstrate the Most Cost-Effective Bid Proposal Was Selected &amp; Price Was Not the Primary Factor During Bid Evaluation.</b> The Beneficiary considered non-price factors in the cost criteria when evaluating bids from potential service providers.	\$30,038	\$0	\$30,038
<b>Finding #3: FCC Form 472 Instructions, at 6 (2007)–Beneficiary Over-Invoiced SLP for Equipment Not Requested.</b> The Beneficiary invoiced SLP for equipment that was not requested on the Beneficiary's Item 21 Attachment to the Beneficiary's FCC Form 471.	\$17,711	\$4,543	\$13,168
<b>Finding #4: 47 C.F.R. § 54.504(d)(2) (2011)– Beneficiary Over-Invoiced SLP for the Higher Cost of Substituted Equipment.</b> The Beneficiary requested and was approved for a service substitution for equipment but over-invoiced SLP for the higher cost of the substituted equipment rather than invoicing SLP for the lower, original cost approved by SLP in the Funding Commitment Decision Letter.	\$11,099	\$0	\$11,099
<b>Finding #5: 47 C.F.R. § 54.507(d) (2011)– Beneficiary Over-Invoiced SLP for Equipment and Services Received Outside the Funding Year.</b> The Beneficiary invoiced SLP and SLP disbursed funds for equipment and services received by the Beneficiary prior to the funding year.	\$4,657	\$4,657	\$0
<b>Finding #6: 47 C.F.R. § 54.514(b) (2011)– Untimely Reimbursement From Service Provider (Network Service Consultants, Inc.).</b> The service provider did not reimburse the Beneficiary within 20 business days following receipt of the funds disbursed by SLP.	\$0	\$0	\$0

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<sup>1</sup> If a finding is subsequently waived via appeal, any overlapping recovery with that finding will be recovered with the remaining findings.

<b>Audit Results</b>	<b>Monetary Effect of Audit Results (A)</b>	<b>Overlapping Recovery<sup>1</sup> (B)</b>	<b>USAC Recovery Action (A) - (B)</b>
<b>Finding #7: 47 C.F.R. § 54.514(b) (2011)– Untimely Reimbursement From Service Provider (StormWood Technologies).</b> The service provider did not reimburse the Beneficiary within 20 business days following receipt of the funds disbursed by SLP.	\$0	\$0	\$0
<b>Total Net Monetary Effect</b>	<b>\$215,913</b>	<b>\$9,200</b>	<b>\$206,713</b>

## USAC MANAGEMENT RESPONSE

### **Finding 1**

The Beneficiary requested specific service providers in its RFP which may have discouraged or deterred other prospective bidders from submitting bids. Therefore, the Beneficiary failed to comply with competitive bidding requirements to conduct a fair and open competitive bidding process prior to selecting a service provider.

### **Finding 2**

The Beneficiary's bid evaluation process failed to demonstrate the most cost-effective bid was selected using price of the eligible services and equipment as the primary factor.

### **Finding 3**

For FRNs 2184031 and 2184430, the Beneficiary invoiced SLP in its BEAR forms for equipment that was not requested or approved on the Beneficiary's Item 21 Attachment to FCC Form 471.

### **Finding 4**

For FRN 2184430, the Beneficiary invoiced SLP for the higher cost of the substituted equipment.

### **Finding 5**

For FRN 2184031, the Beneficiary invoiced SLP on its FCC Form 472 BEAR form for internal connection equipment for the full amount billed by its Service Provider prior to the service start date of July 1, 2011 as reported on the Beneficiary's FCC Form 486.

### **Finding 6**

For FRN 2184452, the Service Provider (Network Service Consultants Inc.) did not reimburse the Beneficiary within 20 business days following receipt of the funds disbursed by SLP.

### **Finding 7**

For FRN 2185055, the Service Provider (Network Service Consultants Inc.) did not reimburse the Beneficiary within 20 business days following receipt of the funds disbursed by SLP.

USAC management has reviewed the seven audit findings and concurs with the effects and recommendations. USAC will seek recovery of the Schools and Libraries Program support amount consistent with the Rules. In addition, USAC will conduct outreach to the Beneficiary and Service Providers to address the areas of deficiency that are identified in the audit report. See the chart below for USAC recovery action by FRN.

FRN	Finding #1	Finding #2	Finding #3	Finding #4	Finding #5	Finding Total
2182160	\$40,951	-	-	-	-	\$40,951
2182165	\$59,291	-	-	-	-	\$59,291
2182170	\$9,965	-	-	-	-	\$9,965
2182174	\$39,360	-	-	-	-	\$39,360
2182184	\$2,841	-	-	-	-	\$2,841
2184031	-	\$30,038	\$0	-	\$0	\$30,038
2184430	-	-	\$13,168	\$11,099	-	\$24,267
<b>Total</b>	<b>\$152,408</b>	<b>\$30,038</b>	<b>\$13,168</b>	<b>\$11,099</b>	<b>\$0</b>	<b>\$206,713</b>



## PURPOSE, SCOPE, BACKGROUND AND PROCEDURES

### PURPOSE

The purpose of the audit was to determine whether the Beneficiary complied with the Rules.

### SCOPE

The following chart summarizes the Schools and Libraries Program support amounts committed and disbursed to the Beneficiary for Funding Year 2011 (audit period):

Service Type	Amount Committed	Amount Disbursed
Internal Connections	\$819,300	\$363,734
Basic Maintenance of Internal Connections	\$73,139	\$47,429
Internet Access	\$59,002	\$0
Telecommunications	\$318,324	\$152,408
<b>Total</b>	<b>\$1,269,765</b>	<b>\$563,571</b>

*Note:* The amounts committed and disbursed reflect funding year activity as of the commencement of the audit.

The committed total represents nine FCC Form 471 applications with 16 Funding Request Numbers (FRNs). IAD selected eight FRNs, which represent \$514,662 of the funds disbursed during the audit period, to perform the procedures enumerated below with respect to the Funding Year 2011 applications submitted by the Beneficiary.

### BACKGROUND

The Beneficiary is a public school district located in Brunswick, Georgia that serves over 12,800 students.

### PROCEDURES

IAD performed the following procedures:

#### A. Application Process

IAD obtained an understanding of the Beneficiary's processes relating to the Schools and Libraries Program (SLP). Specifically, IAD examined documentation to support its effective use of funding and that adequate controls exist to determine whether funds were used in accordance with the Rules. IAD used inquiry and direct observation to determine whether the Beneficiary was eligible to receive funds and had the necessary resources to support the equipment and services for which funding was requested. IAD also used inquiry to obtain an understanding of the process the Beneficiary used to calculate its discount percentage and validated its accuracy.

IAD obtained and examined documentation to determine whether the Beneficiary complied with the Schools and Libraries Program Children's Internet Protection Act (CIPA) requirements. Specifically, IAD obtained and evaluated the Beneficiary's Internet Safety Policy. IAD obtained an understanding of the process by which the Beneficiary communicated and administered the policy.

#### B. Competitive Bid Process

IAD obtained and examined documentation to determine whether the Beneficiary properly selected a service provider that provided eligible services and price of the eligible services and goods was the primary factor considered. IAD also obtained and examined evidence that the Beneficiary waited the required 28 days from the date the FCC Form 470 was posted on USAC's website before signing contracts or executing month-to-month agreements with the selected service providers. IAD examined the service provider contracts to determine whether they were properly executed. IAD evaluated the equipment and services requested and purchased for cost effectiveness as well.

**C. Invoicing Process**

IAD obtained and examined invoices for which payment was disbursed by USAC to determine whether the equipment and services identified on the FCC Form 472 Billed Entity Applicant Reimbursements (BEARs), FCC Form 474 Service Provider Invoices (SPIs) and corresponding service provider bills were consistent with the terms and specifications of the service provider agreements. IAD also examined documentation to determine whether the Beneficiary paid its non-discounted share in a timely manner.

**D. Site Visit**

IAD performed a physical inventory to evaluate the location and use of equipment and services to determine whether it was delivered and installed, located in eligible facilities, and utilized in accordance with the Rules. IAD evaluated whether the Beneficiary had the necessary resources to support the equipment and services for which funding was requested. IAD also evaluated the equipment and services purchased by the Beneficiary to determine whether funding was used in an effective manner.

**E. Reimbursement Process**

IAD obtained and examined invoices submitted for reimbursement for the equipment and services delivered to the Beneficiary and performed procedures to determine whether USAC was invoiced properly. Specifically, IAD reviewed invoices associated with the BEAR and SPI forms for equipment and services provided to the Beneficiary. IAD verified that the equipment and services identified on the BEAR and SPI forms and corresponding service provider bills were consistent with the terms and specifications of the service provider agreements and eligible in accordance with the SLP Eligible Services List.

## DETAILED AUDIT FINDINGS

### **Finding #1: 47 C.F.R. § 54.503(a) (2011)–Failure to Demonstrate Competitive Bidding Process Was Fair and Open**

#### CONDITION

IAD examined documentation to determine whether the competitive bidding process undertaken to select service providers was fair and open for FRNs 2182160, 2182165, 2182170, 2182174, and 2182184. On the FCC Form 470 No.

525400000843236, the Beneficiary requested (1) “Cellular / Blackberry-type service” and (2) “Telephone service – local & long distance” and indicated in Box 8a that it intended to release a request for proposal (RFP) for these services. IAD examined the RFP released by the Beneficiary on January 4, 2011 for Funding Year (FY) 2011, and identified that the Beneficiary listed the following service descriptions in Attachment A:

Description	Location	Category
ATT Local & long distance service	BOE/District	Telecom
Verizon cell phone service	BOE/District	Telecom
Southern Link Communications	BOE/District	Telecom

The Beneficiary informed IAD that the specific service providers’ names were included in the RFP because those service providers were the only service providers in the region that could provide the local, long distance, and wireless telecommunications services requested.<sup>2</sup> Thus, in this instance, the inclusion of the service providers’ names represented a request for specific service providers’ service and not just a description of the type of service. In addition, the Beneficiary did not provide documentation to substantiate its assertion that there were no other service providers, other than the service providers requested in the Beneficiary’s RFP, that could have provided the requested services in its area. Moreover, IAD researched various service provider websites and identified that AT&T<sup>3</sup> and Verizon Wireless<sup>4</sup> coverage maps indicated that both carriers have extensive cellular service in the areas where the Beneficiary is located; although, the Beneficiary indicated that only Verizon could provide the requested cell phone service in the Beneficiary’s area.

The Beneficiary verbally informed IAD that it did not receive any bids for the services requested and elected to continue receiving pre-existing services with the service providers requested in the RFP. Because the Beneficiary requested specific service providers’ local, long distance, and wireless telecommunications services in its RFP, the Beneficiary may have discouraged or deterred other prospective bidders from submitting bids. Further, the Beneficiary’s request for specific service providers’ local, long distance, and wireless telecommunications services in its RFP may have suggested that the outcome of the Beneficiary’s competitive bidding process was predetermined or that the requested service provider would be given preference in the competitive bidding process.

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<sup>2</sup> Email from IAD to Hugh Manning, Glynn County School District Consultant (June 26, 2015), summarizing the discussions between IAD and the Beneficiary during a conference call the same day.

<sup>3</sup> See *Domestic Wireless Voice Coverage*: <https://www.att.com/maps/wireless-coverage.html>, (Dec. 2015).

<sup>4</sup> See *Check your coverage*: <https://vzwmap.verizonwireless.com/dotcom/coveragelocator/>, (Dec. 2015).

The FCC stated that “[w]hen an applicant discourages prospective service providers from participating in a competitive bidding process, the applicant suppresses fair and open competitive bidding and ultimately damages the integrity of the program.”<sup>5</sup> As the Beneficiary’s request for specific service providers’ local, long distance, or wireless telecommunications services in its RFP could have discouraged other prospective service providers from bidding on the requested services, IAD is unable to conclude that the Beneficiary conducted a fair and open competitive bidding process for the requested eligible goods and services.

## CAUSE

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding the competitive bidding process. The Beneficiary has not examined FCC Orders that provided clarification on competitive bidding requirements and contends that requesting a specific service provider’s service informs potential bidders of the services requested. In addition, the Beneficiary’s Director of Technology Services informed IAD that Funding Year 2011 was the first year he was involved in the SLP process.

## EFFECT

The monetary effect of this finding is \$152,408. This amount represents the total amount disbursed by SLP, as follows.

FRN	Disbursed Amount
2182160	\$40,951
2182165	\$59,291
2182170	\$9,965
2182174	\$39,360
2182184	\$2,841
<b>Total</b>	<b>\$152,408</b>

## RECOMMENDATION

IAD recommends USAC management seek recovery of \$152,408. The Beneficiary must implement controls and procedures to ensure that it complies with the competitive bidding process requirements as required by the Rules. IAD further recommends the Beneficiary examine FCC Orders, including the *Conestoga Valley Order* and the *Last Mile Order*, to familiarize itself with the Rules governing the competitive bidding process. In addition, IAD recommends the Beneficiary take advantage of the various outreach efforts provided by SLP, including the annual Fall Applicant training, webinars, newsletters, etc. The Beneficiary can learn more about SLP’s outreach on USAC’s website at <http://www.usac.org/sl/about/outreach/default.aspx>.

## BENEFICIARY RESPONSE

This finding is based on incorrect information and flimsy deductions, none of which is supported by facts or the district’s long procurement practice and history. We wish to rebut statements made in this Finding as follows. Finding statements are provided in quotes and our response follows:

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<sup>5</sup> *Requests for Review of Decisions of the Universal Service Administrator by Conestoga Valley Sch. Dist.*, CC Docket No. 02-6, Order, 27 FCC Rcd 13167 at para. 3 (2012) (*Conestoga Valley Order*). See also *Request for Review of a Decision of the Universal Service Administrator by Last Mile, Inc., D/B/A Sting Communications and Request for Waiver of the Commission’s Rules by Glendale Sch. Dist.*, CC Docket No. 02-6, Order, 29 FCC Rcd 2909 at para. 4 (2014) (*Last Mile Order*) (stating same).

“The Beneficiary informed IAD that the specific service providers’ names were included in the RFP because those service providers were the only service providers in the region that could provide the local, long distance, and wireless telecommunications services requested.”<sup>6</sup>

The referenced email came from IAD and not from Hugh Manning as indicated (IAD corrected this error). The Beneficiary did not make this statement, it was made by IAD who did not name any district person making this statement.

Most importantly, we disagree that service provider’s names were included in the RFP for the reason given. The reason they were included was a courtesy by the district in response to common vendor inquiries into who provides current services. The inclusion had nothing to do with exclusivity or to restrict competition [sic] in any way.

“....the Beneficiary may have discouraged or deterred other prospective bidders from submitting bids.”

District staff are very much aware that solicitations of all kinds must encourage prospective bidders from submitting bids. It is false to suggest that the district acted in any way that intentionally or otherwise discouraged bidders in any way.

GCSD has a record of aggressively seeking as much competition for their services as possible. All vendors who work with GCSD are very much aware that the district places price above all criteria, and there are no vendors who have preferential status for any reason. The district makes an impressive effort to advertise opportunities to vendors. Lastly, a review of district vendors demonstrates a wide variety of vendors are selected over time.

We affirm the following in addition to the comments above:

1. Vendors were NOT listed in order to discourage competition.
2. The district did NOT list the current vendors to indicate that they were the only vendors who could provide the services. The simple listing of the vendors in no way illustrates that they were exclusive in any way.
3. There is nobody involved with the [FCC Form] 470 competition who said the listing was done so in order to affect what vendor would bid.
4. There is absolutely NO evidence that listing these vendors discouraged competitive quotes.
5. Glynn County Schools has a long record of very much encouraging competition. A review of vendor awards over any period of time will illustrate a wide variety of vendors awarded, especially for technology services. Price has always been the single most important factor for vendor selection, and this fact is evident for purchases a long time before E-rate even existed.

## IAD RESPONSE

In its response, the Beneficiary states that it “did not make this statement” that the specific service providers’ names were included in the RFP because those service providers were the only service providers in the region that could provide the local, long distance, and wireless telecommunications services requested. IAD does not concur with the Beneficiary’s statement. IAD and the Beneficiary participated on a conference call, at which time, the Beneficiary’s Director of

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Technology Services informed IAD as to why there were specific service providers' names included in the RFP. After the conference call ended, IAD sent the Beneficiary a recap of the information discussed during the conference call that took place earlier the same day. The Beneficiary's consultant, the Director of Technology Services, and other Beneficiary employees were attendees on the conference call. The Beneficiary's consultant replied to IAD's email on June 28, 2015 to ask if IAD was "looking for feedback on the Open Item..." that was listed among the recap of information discussed on the call and did not dispute the statement that the specific service providers' names were included in the RFP nor did the Beneficiary provide any indication that the statement was inaccurate.<sup>7</sup>

The Beneficiary also acknowledges in its response that the service provider names were included in the RFP as "a courtesy by the district in response to common vendor inquiries into who provides current services." However, as noted in the Condition section above and consistent with the FCC's *Last Mile Order*, IAD reiterates that requesting services from specific service providers in the RFP could have tainted the competitive bidding process by discouraging prospective service providers from submitting bids.<sup>8</sup> For example, here, the Beneficiary requested "Verizon cell phone service," thereby limiting the request to cell phone service provided by Verizon. The Beneficiary also states that "[i]t is false to suggest that the district acted in any way that intentionally or otherwise discouraged bidders in any way." IAD never indicated to the Beneficiary or in the finding that the Beneficiary intentionally discouraged prospective service providers from submitting bids. As noted in the Condition section above, IAD found that the inclusion of the service providers' names along with the requested service in the RFP could have discouraged prospective service providers from submitting bids and that IAD was unable to conclude that the Beneficiary conducted a fair and open competitive bidding process.

In addition, the Beneficiary states in its response that it "has a record of aggressively seeking as much competition for their services as possible." However, the Beneficiary did not provide documentation during the audit or with its response to this finding to substantiate this statement. The documentation provided during the audit to substantiate its competitive bidding process for FRNs 2182160, 2182165, 2182170, 2182174, and 2182184 only included the FCC Form 470 and the RFP, which requested services from specific service providers. The Beneficiary further states in its response that "[t]here is absolutely NO evidence that listing these vendors discouraged competitive quotes." However, the fact remains that the Beneficiary's RFP requested services from specific providers which served to limit the bids that could be submitted for these services and therefore, the RFP may have prevented a fair and open competitive bidding process.

For these reasons, IAD's position on this finding remains unchanged.

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## **Finding #2: 47 C.F.R. § 54.511(a) (2011)-Failure to Demonstrate The Most Cost-Effective Bid Proposal Was Selected & Price Was Not the Primary Factor During Bid Evaluation**

### **CONDITION**

IAD obtained and examined documentation, including the Request for Proposal (RFP), service provider bid proposals responding to the requested services, and the Beneficiary's bid evaluation matrices, to determine whether the Beneficiary carefully considered all bid proposals and selected the most cost-effective service offering using price of the eligible goods and services as the primary factor for FRN 2184031. The Beneficiary received and evaluated bid proposals submitted by MXN Corporation (MXN) and Progressive, Inc. (Progressive) for the internal connections services requested for FRN

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<sup>7</sup> Email to IAD from Hugh Manning, Glynn County School District Consultant (June 28, 2015).

<sup>8</sup> *Last Mile Order* at para. 4.).

2184031. IAD determined through examination of the documentation and inquiries made with the Beneficiary that the Beneficiary did not select the most cost-effective service offering using price of the eligible goods and services as the primary factor in accordance with the Rules.

IAD examined the Beneficiary's bid matrices and determined that the Beneficiary's selection criteria included: (1) price, (2) previous experience, (3) personnel qualifications, (4) management capability, and (5) environmental objectives. On a scale of 1 to 5, with 1 being the worst and 5 being the best, the Beneficiary scored the bid proposals as follows:

Selection Criteria	Weight	MXN	Weighted Score	Progressive	Weighted Score
Price	30%	4	1.2	5	1.5
Previous Experience	25%	4	1	3	0.75
Personnel Qualifications	20%	4	0.8	3	0.6
Management Capability	15%	4	0.6	3	0.45
Environmental Objectives	10%	5	0.5	5	0.5
			<b>4.1</b>		<b>3.8</b>

Although price was assigned the highest weight, the Beneficiary verbally informed IAD that in order to assign each service provider a score in the price category, it estimated and adjusted the price of the bid proposals at its own discretion to equate what it felt would be the true value of the products. The Beneficiary also verbally informed IAD that it believed MXN offered higher quality equipment that better served the needs of the school district than Progressive. The Beneficiary stated that the number of access points offered in the Progressive bid proposal would have to be doubled in order to provide the same quality of service as the number of access points offered in the MXN bid proposal.<sup>9</sup> Per IAD's review of Progressive's bid proposal and the Beneficiary's RFP, Progressive's bid proposal included the amount of equipment that was requested in the Beneficiary's RFP. However, the Beneficiary believed that it needed to double the amount of equipment noted in the Progressive bid proposal; and as a result, the Beneficiary estimated that the Progressive bid proposal would need to be doubled for the cost. IAD did not identify anywhere among the bid evaluation documentation provided by the Beneficiary where the Beneficiary estimated pricing based on the adjustments made to the equipment needs. In addition, the Beneficiary verbally informed IAD that it did not contact Progressive to obtain a quote for an increased amount of equipment.

In addition, MXN submitted a bid proposal for wireless access points and controllers, as requested in the Beneficiary's RFP, and for Basic Maintenance of Internal Connections (BMIC) services, which were not requested in the Beneficiary's RFP, for a total cost of \$220,328. MXN's quote for the BMIC services amounted to \$25,545. Therefore, MXN's quote for the internal connections services requested in the RFP amounted to \$194,783 (\$220,328 - \$25,545). Progressive submitted a bid proposal for the wireless access points and controllers, as requested in the Beneficiary's RFP, for a total cost of \$101,084. Progressive's bid proposal included 10 additional wireless access points and one additional controller as compared to the number of wireless access points and controllers in the MXN bid proposal. In order to compare the costs proposed for the same amount of equipment, IAD removed the cost per unit for the 10 additional wireless access points and one controller from the Progressive bid proposal and determined that the quoted cost for a comparable number of internal connections in the Progressive bid proposal amounted to \$92,814. Thus, in comparing the same amount of internal connections, the cost

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<sup>9</sup> Email to IAD from Hugh Manning, Glynn County School District Consultant (Aug. 18, 2015).

of the MXN bid proposal would amount to \$194,783, which was 210 percent, or more than twice the cost of Progressive's bid proposal of \$92,814 for the same amount of equipment.

Further, in response to the audit, the Beneficiary obtained and provided a report analyzing total economic impact and potential return on investment of the Meru LAN service, the Forrester Report, and links to two other case study results by Novarum and Meru to attest to the quality of Meru equipment.<sup>10</sup> However, IAD determined that although the research and reports gave positive remarks and considered the type of access points offered by MXN to be of high quality, it did not provide an analysis of the type of equipment offered by Progressive, nor did it compare the types of equipment offered by MXN and Progressive. Thus, IAD could not substantiate that the equipment offered by MXN was of higher quality than the equipment offered by Progressive.

The FCC stated that "[t]here may be situations... where the price of services is so exorbitant that it cannot, on its face, be cost effective... [and] prices two or three times greater than prices available from commercial vendors would not be cost-effective, absent extenuating circumstances."<sup>11</sup> The bid evaluations provided by the Beneficiary, along with the other competitive bidding documentation, including the research and reports provided by the Beneficiary, does not demonstrate that extenuating circumstances existed. Therefore, because the Beneficiary selected a service provider that offered a price more than two times greater than the price offered by the other bidder and the Beneficiary considered the quality and performance of the equipment when evaluating the price criterion, IAD cannot conclude that the Beneficiary selected the most cost-effective service offering. Further, the Beneficiary did not consider price of the eligible goods and services as the primary factor in accordance with the Rules because the Beneficiary also considered the factors quality and performance of the equipment when providing scores for the price criterion.

## CAUSE

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding the competitive bidding process or selecting the most cost-effective service offering using price of the eligible goods and services as the primary factor. The Beneficiary considered the quality and performance of equipment in the price criteria rather than in another (non-price) criterion. The Beneficiary has not adequately examined the Rules, including FCC Orders that provided clarification on competitive bidding requirements. In addition, the Beneficiary's Superintendent informed IAD that Funding Year 2011 was the first year he was involved in the SLP process.

## EFFECT

The monetary effect of this finding is \$30,038. This amount represents the total funds disbursed for FRN 2184031.

## RECOMMENDATION

IAD recommends USAC management seek recovery of \$30,038. IAD also recommends USAC management issue a commitment adjustment to rescind the full commitment amount for FRN 2184031 to prevent future disbursements on invoices requesting reimbursement for the remaining \$168,258. In addition, the Beneficiary must implement controls and procedures to ensure it carefully considers all bid proposals and selects the most cost-effective service offering, using price of the eligible goods and services as the primary factor considered, as required by the Rules. IAD also recommends the Beneficiary examine the Rules to familiarize itself with the Rules governing the competitive bidding process and cost-effectiveness. Also, IAD recommends the Beneficiary take advantage of the various outreach efforts provided by SLP, including the annual Fall Applicant training, webinars, newsletters, etc. The Beneficiary can learn more about SLP's outreach on USAC's website at <http://www.usac.org/sl/about/outreach/default.aspx>.

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<sup>10</sup> Email to IAD from Hugh Manning, Glynn County School District Consultant (Aug. 25, 2015).

<sup>11</sup> *Request of Review of the Administrator's Decision by Ysleta Ind. Sch. Dist. et al.*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rd. 26407 at para. 54 (2003) (*Ysleta Order*).



## BENEFICIARY RESPONSE

The price difference between these two vendors is actually very little. The scoring of these two vendors' price was based on a technical analysis where both proposals were compared against the RFP specifications. Since Progressive was scored to be slightly cheaper, they received a 5, and MXN received a 4.

You make the assumption that the HP and MERU wireless access points and controllers bid provide the same functionality. Based on your assumption, you simply reduced the quantities bid so they have equal amounts of units. Then based on that assumption, you are ready to declare an audit finding that the selected vendor was scored incorrectly on the price criteria. You indicated that a finding might be declared on this matter and did not even suggest that we might have some logic to our conclusions. Only after I asked for a chance to explain our logic did you agree to let us explain how we arrived at our assessment and scoring.

### **A comparison of HP and MERU WAPs that were bid by Progressive and MXN respectively.**

Summary conclusion: There needs to be about double the number of HP access points to have an equivalent solution. Actually, at double the access points, the HP solution still falls short on performance. Here is the detail logic for this conclusion:

20 HP MSM430's: 40 radios; conservatively (how you ought to network plan) about 400-800 sessions. Deduct some for RF blocking of the 5 GHz channel; say, 20 percent. Now at 320-640 concurrent sessions.

20 MERU AP320i's: 40 radios; conservatively about 1,000 to 3,200 sessions. Deduct the same for RF blocking. Now at 800-2,560 sessions.

For both options assume adequate video at the low end of the demand range.

How many students per location? I'll assume 300. We need to assume one-to-one, and we need to assume video embedded in educational material. We'll also assume that there are other things afoot, too, like guests and teachers and admin staff, all using the wireless. VoIP phones, IP cameras, etc.

So, one-to-one, with video embedded in education, 20 MSM430's don't get it, and 20 AP320i's do. Use the planning assumption at the time of two active sessions per student the MSM430's still don't get it. And the AP320i's do.

At some point the increasing number of access points would require the addition of another controller. And you also need to add access point licenses when you add access point hardware. These licenses are added to the wireless controller, and not at the school.

### **Here is our logic that was used to score the MXN bid a 4 and the Progressive bid a 5 on price:**

1. The attached sheet [shared with USAC management] provided by you has been amended to add a 3<sup>rd</sup> column with equivalent HP WAPS, cabling and licenses. We double the quoted HP based on the logic above.
2. At the bottom of the sheet you see our calculated price for MXN and Progressive and you see that Progressive is slightly lower.
3. The district scored Progressive lower on price even though an HP solution is practically undesirable for logistical and management considerations.

4. The district was being overly fair to Progressive as arguably there should be even more than double the WAPs quoted if a totally equal performance was to be delivered.

With all these considerations, we suggest that the district scoring was E-rate compliant and a finding on price scoring is without any justification.

## IAD RESPONSE

IAD does not concur with the Beneficiary's statement that "[t]he price difference between these two vendors is actually very little." As noted in the Condition section above, MXN's quoted price in its bid was more than twice the cost quoted by Progressive for the services requested by the Beneficiary in its RFP. The Beneficiary indicates in its response that it is not appropriate to compare the prices quoted in the bids using equal quantities of units. However, the Beneficiary included in the RFP the number of units it requested and both service providers submitted bids with the number of units as requested in the Beneficiary's RFP.

To evaluate price as the primary factor, the Beneficiary should have considered only price for the eligible services requested in the RFP and considered other factors, such as quality and performance, in separate non-price criteria. Yet, in its response, the Beneficiary reaffirms that price was not evaluated as the primary factor when the Beneficiary states that it needed to double the quantity of access points quoted by Progressive because the Progressive access points "falls short on performance." In addition, in its response, the Beneficiary indicates that it considered the access points' capacity for the number of "sessions" before evaluating price. Further, the Beneficiary also states in its response that "[w]e double the quoted HP based on the logic above." The Rules state that "[i]n determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered."<sup>12</sup> By considering performance and capacity and adjusting the prices quoted in the bids based on the Beneficiary's assessment of performance and capacity, the Beneficiary considered factors other than the pre-discount prices within the price criterion. IAD does not take exception to the Beneficiary's intention to score the bids based on performance and capacity; however, such criteria cannot be included in the evaluation for the price criterion and should be considered as other non-price criteria.<sup>13</sup>

In addition, IAD does not concur with the Beneficiary's statement that IAD "did not even suggest that we might have some logic to our conclusion [and] [o]nly after I asked for a chance to explain our logic did you agree to let us explain how we arrived at our assessment and scoring." On June 26, 2015, IAD conducted a conference call with the Beneficiary to provide an update on the status of the audit and to inform the Beneficiary of potential findings identified as of June 26, 2015. IAD sent an email to the Beneficiary following the conference call to summarize the discussion and the "potential findings."<sup>14</sup> Further, in the email, IAD informed the Beneficiary that the findings "have not been finalized [and] [t]he audit is still in progress." IAD continued to consider additional information and documentation provided by the Beneficiary subsequent to the call and email. Over five months later on December 7, 2015, IAD informed the Beneficiary that IAD had "completed all

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<sup>12</sup> 47 C.F.R. § 54.511(a) (2011).

<sup>13</sup> *Id.*

<sup>14</sup> Email from IAD to Hugh Manning, Glynn County School District Consultant (June 26, 2015), summarizing the discussions between IAD and the Beneficiary during a conference call the same day.

fieldwork”<sup>15</sup> and on December 8, 2015 provided the Beneficiary with an updated list of the “potential issues.”<sup>16</sup> On December 17, 2015, IAD conducted a conference call to discuss the potential findings and answer the Beneficiary’s questions. On February 11, 2016, IAD provided the Beneficiary with written drafts of the findings.<sup>17</sup> On March 3, 2016, IAD conducted another conference call after the Beneficiary had been provided the written drafts of the findings to further answer any questions from the Beneficiary. These specific emails and conference calls along with numerous other email exchanges with the Beneficiary throughout the audit discussing this particular audit finding demonstrates that IAD provided ample opportunity for the Beneficiary to “explain its logic” and provide additional information, and that IAD considered all of the information provided before concluding the audit.

For these reasons, IAD’s position on this finding remains unchanged.

### **Finding #3: FCC Form 472 Instructions, at 6 (2007)-Beneficiary Over-Invoiced SLP for Equipment Not Requested**

#### **CONDITION**

IAD examined the FCC Form 471, FCC Forms 472 Billed Entity Applicant Reimbursement (BEAR) forms, and the corresponding service provider bills provided by the Beneficiary to determine whether the Schools and Libraries Program (SLP) was invoiced only for approved, eligible equipment for FRNs 2184031 and 2184430. IAD determined that the Beneficiary invoiced SLP in its BEAR forms for equipment that was not requested on the Beneficiary’s Item 21 Attachment to the Beneficiary’s FCC Form 471.<sup>18</sup>

In the Beneficiary’s Item 21 Attachment to the FCC Form 471, the Beneficiary requested and was approved by SLP for one HP Gigabit-SX-LC Mini GBIC and 20 AP320. The Service Provider, MXN Corporation, billed the Beneficiary for one additional HP Gigabit-SX-LC Mini GBIC and 10 additional AP320 in excess of the amount requested on the Item 21 Attachment and committed in the Funding Commitment Decision Letter (FCDL). The Service Provider also billed the Beneficiary for additional equipment that was not requested on the Beneficiary’s Item 21 Attachment and not approved or committed in the FCDL, as summarized below:

FRN	Product Number	Description	Quantity Requested	Quantity Billed	Quantity Not Requested	Unit Cost	Extended Cost Over-Billed
2184430	HP Gigabit-SX-LC Mini GBIC	GBIC module	1	2	1	\$530.41	\$530.41
2184430	AP320	Dual radio 802.11a/b/g/n access point	20	30	10	\$654.06	\$6,540.60
2184031	J9407A	HP 1 Port Power Injector	0	8	8	\$41.30	\$330.40
2184031	J9299A	ProCurve 2520G-24-PoE Switch	0	4	4	\$1,179.41	\$4,717.64

<sup>15</sup> Email from IAD to Hugh Manning, Glynn County School District Consultant (Dec. 7, 2015).

<sup>16</sup> Email from IAD to Hugh Manning, Glynn County School District Consultant (Dec. 8, 2015).

<sup>17</sup> Email from IAD to Hugh Manning, Glynn County School District Consultant (Feb. 11, 2016).

<sup>18</sup> 47 C.F.R. § 54.504(a) (2011); Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), Oct. 2010 (OMB 3060-0806) at 21 (*FCC Form 471 Instructions*).

2184430	MC4100SD50	MC4100 software upgrade license for 50 APs	0	1	1	\$3,438.50	\$3,438.50
2184430	ExRFNNU50	Network manager with Base & Visualize software license upgrade for 50 APs	0	1	1	\$4,122.00	\$4,122.00
<b>Total</b>							<b>\$19,679.55</b>

The Beneficiary over-invoiced SLP on BEAR forms no. 1726563 and 1683362 for one HP Gigabit-SX-LC Mini GBIC , 1 AP320, eight J9407A, four J9299A, one MC4100SD50, and one ExRFNNU50 that were not requested in the Beneficiary's Item 21 Attachment or approved and committed in the FCDL, resulting in an overpayment of \$17,711 (\$19,679.55 \* the Beneficiary's 90 percent discount rate).

### CAUSE

The Beneficiary did not demonstrate sufficient knowledge of the Rules governing seeking reimbursement from SLP for approved, eligible services. The Beneficiary has not adequately examined the Rules, including FCC Orders that provided clarification on SLP's invoicing requirements. Further, the Beneficiary did not have adequate controls and procedures in place to ensure that only SLP approved equipment was invoiced to SLP. In addition, the Beneficiary's Superintendent verbally informed IAD that Funding Year 2011 was the first year he was involved in the SLP process.

### EFFECT

The monetary effect of this finding is \$17,711. This amount represents the total amount for the unrequested and unapproved equipment that were invoiced to and disbursed by SLP, as follows.

FRN	Disbursed Amount
2184031	\$4,543
2184430	\$13,168
<b>Total</b>	<b>\$17,711</b>

### RECOMMENDATION

IAD recommends USAC management seek recovery of \$17,711. The Beneficiary must implement controls and procedures to ensure that SLP is invoiced only for approved, eligible equipment that are requested on the FCC Form 471, including the Item 21 Attachment, and approved and committed in an FCDL. In addition, IAD recommends the Beneficiary take advantage of the various outreach efforts provided by SLP, including the annual Fall Applicant training, webinars, newsletters, etc. The Beneficiary can learn more about SLP's outreach on USAC's website at <http://www.usac.org/sl/about/outreach/default.aspx>.

### BENEFICIARY RESPONSE

Due to the long funding approval time from the submission of the 471, numerous product changes occurred by the manufacturer. Also, district needs changed over this time for several reasons, all of which are expected in technology. NOTE however, that the district ultimately purchased completely E-rate eligible products.

The vendor specified changes after the funding approval was announced and indicated that service substitutions were not necessary as the additional products were E-rate eligible and funding was available due to the changes.

A Corrective Service Substitution is in order for these changes, but all the money obtained by the district was used for the purchase of eligible products and therefore no return of funds is in order.

## IAD RESPONSE

In its response, the Beneficiary states that “all the money obtained by the district was used for the purchase of eligible products and therefore no return of funds is in order.” IAD does not concur with this statement as the equipment in question was not approved by SLP; thus the equipment was not eligible. The Rules state that a “commitment of support is contingent upon the filing of an FCC Form 471.”<sup>19</sup> Further, the Item 21 Attachment to the Beneficiary’s FCC Form 471 “must include a description of the products and services for which discounts are being sought.”<sup>20</sup> As noted in the Condition section above, the Beneficiary did not request and SLP did not issue a commitment of support for the equipment listed above for FRNs 2184031 and 2184430. For these reasons, IAD’s position on this finding remains unchanged.

### **Finding #4: 47 C.F.R. § 54.504(d)(2) (2011)-Beneficiary Over-Invoiced SLP for the Higher Cost of Substituted Equipment**

#### CONDITION

IAD examined the Beneficiary’s Fixed Asset Listing (FAL), Funding Commitment Decision Letter (FCDL), FCC Form 471 Item 21 Attachment, the FCC Forms 474, Billed Entity Applicant Reimbursement (BEAR) Forms, and the corresponding service provider bills provided by the Beneficiary to determine whether the Schools and Libraries Program (SLP) was accurately invoiced for eligible, approved equipment for FRN 2184430.

The Beneficiary requested and was approved by SLP for the following equipment in its Item 21 Attachment for pre-discounted costs of \$31,312.48, as summarized below:

Product Number	Description	Quantity	Unit Cost	Extended Cost
2610-48 POE Switch	48 Port Switch	12	\$1,592.41	\$19,108.92
2820G-24 POE Switch	24 Port Switch	12	\$618.91	\$7,426.92
5406zl Intelligent Edge switch	Switch	1	\$1,356.41	\$1,356.41
zl 24 port 10/100/1000 PoE+ module	POE Module	1	\$2,477.41	\$2,477.41
zl 875 Watt Redundant Power Supply	Power Supply	2	\$471.41	\$942.82
			<b>Total</b>	<b>\$31,312.48</b>

However, the Service Provider, MXN Corporation, informed IAD that the equipment was considered obsolete at the time of installation and the Service Provider installed upgraded models of the equipment with the same functionality at the pre-discounted costs of \$43,644.38, as summarized below:

Product Number	Description	Quantity	Unit Cost	Extended Cost
HP 2620-48-PoE+ Switch	48 Port Switch	19	\$1,651.41	\$31,376.79
HP 2520G-24-PoE Switch	24 Port Switch	4	\$1,179.41	\$4,717.64
HP E5406-44G-PoE+/4G v2 zl Switch w Premium SW	Switch	1	\$4,601.41	\$4,601.41
HP 12-port Gig-T / 12-port SFP v2 zl Mod	POE Module	1	\$2,300.41	\$2,300.41
HP 1500W PoE+ zl Power Supply	Power Supply	1	\$648.41	\$648.41

<sup>19</sup> 47 C.F.R. § 54.504(a) (2011).

<sup>20</sup> FCC Form 471 Instructions at 21.

			<b>Total</b>	<b>\$43,644.66</b>
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The Beneficiary requested and was approved for the use of substituted equipment. However, the Beneficiary invoiced SLP on BEAR form no. 1683362 for the higher cost of the substituted equipment of \$36,094.43 (\$31,376.79 + \$4,717.64). The Beneficiary should have, but did not, invoice SLP for the lower, original price of \$26,535.84 (\$19,108.92 + \$7,426.92) for the substituted equipment approved by SLP in the Beneficiary's FCDL.<sup>21</sup> In addition, the Beneficiary invoiced SLP on BEAR form no. 1683362 for the higher cost of the substituted equipment of \$7,550.23 (\$4,601.41 + \$2,300.41 + \$648.41). The Beneficiary should have, but did not, invoice SLP for the lower, original price of \$4,776.64 (\$1,356.41 + \$2,477.41 + \$942.82) for the substituted equipment approved by SLP in the Beneficiary's FCDL.<sup>22</sup> Thus, the Service Provider over-invoiced SLP for pre-discounted costs of \$12,332.18 (\$36,094.43 + \$7,550.23 - \$26,535.84 - \$4,776.64), which resulted in a SLP overpayment of \$11,099 (\$12,332 \* the Beneficiary's 90 percent discount rate).<sup>23</sup>

SLP disbursed the full amount that was requested on the BEAR forms to the Service Provider who passed on the payments to the Beneficiary.

## CAUSE

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding service substitutions. The Beneficiary has not adequately examined the Rules, including FCC Orders, which provided clarification on service substitutions and SLP invoicing requirements. In addition, the Beneficiary did not have adequate controls and procedures in place to ensure that SLP is invoiced only for the lower, original price for the substituted equipment approved by SLP.

## EFFECT

The monetary effect of this finding is \$11,099. This amount represents the amount disbursed by SLP for the amount in excess of the cost of the equipment approved in the Beneficiary's FCDL for FRN 2184430.

## RECOMMENDATION

IAD recommends USAC management seek recovery of \$11,099. The Beneficiary must implement controls and procedures to ensure SLP is invoiced only for the lower of the cost of the supported equipment approved in the FCDL or the cost of the approved substituted equipment as required by the Rules. In addition, IAD recommends the Beneficiary review USAC's website at <http://www.usac.org/sl/applicants/before-youre-done/service-substitutions.aspx> to become familiar with the Rules governing the submission of invoices for service substitutions. Also, IAD recommends the Beneficiary take advantage of the various outreach efforts provided by SLP, including the annual Fall Applicant training, webinars, newsletters, etc. The Beneficiary can learn more about SLP's outreach on USAC's website at <http://www.usac.org/sl/about/outreach/default.aspx>.

## BENEFICIARY RESPONSE

Due to the long funding approval time from the submission of the [FCC Form] 471, numerous product changes occurred by the manufacturer. Also, district needs changed over this time for several reasons, all of which are expected in technology. NOTE, however, the district ultimately purchased completely E-rate eligible products.

The vendor specified changes after the funding approval and indicated that service substitutions were not necessary as the additional products were E-rate eligible and funding was available due to the changes.

<sup>21</sup> *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order, 18 FCC Rcd 26912 at para. 42 (2003) (*Third Report and Order*).

<sup>22</sup> *Id.*

<sup>23</sup> Instructions for Completing the Universal Service for Schools and Libraries Billed Entity Applicant Reimbursement Form (FCC Form 472), Apr. 2007 (OMB 3060-0856) at 6 (*FCC Form 472 Instructions*).

A Corrective Service Substitution is in order for these changes, but all the money obtained by the district was used for the purchase of eligible products and therefore no return of funds is in order.

## IAD RESPONSE

In its response, the Beneficiary states that “all the money obtained by the district was used for the purchase of eligible products and therefore no return of funds is in order.” IAD does not concur with this statement as the equipment in question was approved by SLP via a service substitution; however, only the lower cost of the equipment was eligible for support. The Rules state that “[i]n the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service.”<sup>24</sup> As noted in the Condition section above, the Beneficiary invoiced SLP for the higher pre-discounted cost of the new, substituted equipment rather than the lower pre-discounted cost of the equipment originally requested. For this reason, IAD’s position on this finding remains unchanged.

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## **Finding #5: 47 C.F.R. § 54.507(d)-Beneficiary Over-Invoiced SLP for Equipment and Services Received Outside the Funding Year**

## CONDITION

IAD obtained and examined the Beneficiary’s service provider bills to determine whether the delivery and bill date for the equipment and services purchased for FRN 2184031 were received by September 30 following the close of the funding year. The Beneficiary was billed by the service provider, MXN Corporation, on May 10, 2011 for the following equipment and services on bill no. INV26810 for pre-discounted costs of \$5,174, as summarized below:

Product Number	Description	Quantity	Total Cost
AP320	Dual Radio 802.11 a/b/g/n Wireless Access Point	8	\$4,784
J9407A	HP Power Injector	8	\$330
Shipping and Handling	N/A	1	\$60
			<b>\$5,174</b>

The Beneficiary invoiced SLP on its Billed Entity Applicant Reimbursement (BEAR) form no. 1660676 for the full amount billed by the service provider for the equipment and services delivered prior to the service start date of July 1, 2011 as reported on the Beneficiary’s FCC Form 486.<sup>25</sup> Therefore, the Beneficiary over-invoiced SLP for pre-discounted costs of \$5,174, which resulted in an SLP overpayment of \$4,657 (\$5,174 \* the Beneficiary’s 90 percent discount rate).

## CAUSE

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding the SLP invoicing process. The Beneficiary has not adequately examined the Rules, including FCC Orders, which provided clarification on invoicing requirements. In addition, the Beneficiary did not have adequate controls and procedures in place to ensure that the services and equipment invoiced to SLP were received within the funding year.

## EFFECT

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<sup>24</sup> 47 C.F.R. § 54.504(d)(2) (2011).

<sup>25</sup> FCC Form 472 Instructions at 6.

The monetary effect of this finding is \$4,657. This amount represents the amount disbursed for the equipment and services delivered prior to the beginning of the funding year for FRN 2184031.

## RECOMMENDATION

IAD recommends USAC management seek recovery of \$4,657. The Beneficiary must implement controls and procedures to ensure it invoices SLP within the timeframe established in the Rules. In addition, IAD recommends the Beneficiary review USAC's website at <http://www.usac.org/sl/applicants/step06/default.aspx> and familiarize itself with the SLP invoicing requirements.

## BENEFICIARY RESPONSE

The district clearly instructed the vendor to avoid delivering and invoicing any products/services before OR after the allowable timeframe indicated for each FRN. In this case, the district DID identify that the invoice was actually dated incorrectly because the products were not actually installed until July 2011. The vendor mistakenly invoiced the products noted in this finding based on their purchases from the manufacturer and NOT based on actual delivery and installation. The vendor should have invoiced after July 2011 as that would have accurately reflected the activity of delivery and installation. Since these were all eligible products and since the delivery and installation actually occurred after July 2011, there should be no order for return of these funds. In other words, this was a clerical mistake by the vendor.

## IAD RESPONSE

In its response, the Beneficiary states that the timing of the service provider bill "was a clerical mistake by the vendor." However, the Beneficiary did not provide documentation to substantiate that that invoice was dated incorrectly or that the equipment was delivered and installed in July 2011, as indicated by the Beneficiary in its response. IAD obtained documentation to determine whether the Beneficiary may have withheld payment for its non-discounted share until the equipment was installed, and IAD determined, based on the documentation reviewed, that the Beneficiary paid the service provider for the equipment on May 31, 2011, which is prior to the Funding Year.

IAD is required to conduct its audits in accordance with Generally Accepted Government Auditing Standards (GAGAS),<sup>26</sup> which requires that IAD obtain sufficient, appropriate evidence to provide a reasonable basis for audit findings and conclusions.<sup>27</sup> Because the Beneficiary did not provide documentation demonstrating that the equipment was received after July 2011 and the fact that the Beneficiary paid its non-discounted share of the service provider bill on May 31, 2011, IAD is unable to conclude that the equipment was delivered and installed during the funding year.

For these reasons, IAD's position on this finding remains unchanged.

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### **Finding #6: 47 C.F.R. § 54.514(b) (2011)-Untimely Reimbursement From Service Provider (Network Service Consultants, Inc.)**

## CONDITION

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<sup>26</sup> 47 C.F.R. § 54.702(n) (2011).

<sup>27</sup> See also Government Auditing Standards, GAO-12-331G, § 6.56 (Rev. Dec. 2011) ("Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.").



IAD examined documentation to determine whether the Service Provider, Network Service Consultants, Inc., timely reimbursed the Beneficiary the total discounted amount for FRN 2184452. The Beneficiary submitted FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) form, No. 1719630 to the Schools and Libraries Program (SLP) on June 15, 2012. SLP processed the BEAR form and issued an electronic reimbursement for \$115,515 to the Service Provider on September 27, 2012. However, the Service Provider did not reimburse the Beneficiary until April 9, 2013. Therefore, the Service Provider did not reimburse the Beneficiary within 20 business days following receipt of the funds disbursed by SLP.<sup>28</sup>

#### CAUSE

The Service Provider did not have adequate controls and procedures in place to ensure that the funds were reimbursed to the Beneficiary within 20 business days. The Service Provider informed IAD that the untimely payment was due to a clerical error that resulted in an oversight in getting the reimbursement paid in a timely manner.

#### EFFECT

There is no monetary effect for this finding since the Service Provider provided the proper reimbursement amount to the Beneficiary.

#### RECOMMENDATION

The Service Provider must implement controls and procedures to ensure it reimburses beneficiaries within 20 business days following the receipt of funds disbursed by SLP.

#### BENEFICIARY RESPONSE

The district made every effort to provide the Service Provider with information necessary for the Service Provider to perform their responsibilities.

#### SERVICE PROVIDER RESPONSE

This reimbursement was among the first BEAR reimbursements that Network Service Consultants Inc had completed. It was due to an oversight in accounting/clerical errors with having it paid within the 20 day window. The deposit was made to our bank on 10/12/12. We paid GCBOE back as soon as [we] found what had happened (which stated above was 4/9/13). We have also tried to educate ourselves with the SLC payment process for faster payments/reimbursements for our customers. No foulplay or any intention of wrong doing was ever considered. We respect the process of SLC as well as GCBOE.

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### **Finding #7: 47 C.F.R. § 54.514(b) (2011)-Untimely Reimbursement From Service Provider (StormWood Technologies)**

#### CONDITION

IAD examined documentation to determine whether the Service Provider, StormWood Technologies, timely reimbursed the Beneficiary the total discounted amount for FRN 2185055. The Beneficiary submitted FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) form, No. 1648714 to the Schools and Libraries Program (SLP) on May 23, 2012. SLP processed the BEAR form and issued an electronic reimbursement for \$31,666 to the Service Provider on May 24, 2012. However, the Service Provider did not reimburse the Beneficiary until December 10, 2012. Therefore, the Service Provider did not reimburse the Beneficiary within 20 business days following receipt of the funds disbursed by SLP.<sup>29</sup>

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<sup>28</sup> 47 C.F.R. § 54.514(a) (2011).

<sup>29</sup> *Id.*

## CAUSE

The Service Provider did not have adequate controls and procedures in place to ensure that the funds were reimbursed to the Beneficiary within 20 business days. The Service Provider informed IAD that the untimely payment was due to a clerical error that resulted in an oversight in getting the reimbursement paid in a timely manner.

## EFFECT

There is no monetary effect for this finding since the Service Provider provided the proper reimbursement amount to the Beneficiary.

## RECOMMENDATION

The Service Provider must implement controls and procedures to ensure it reimburses beneficiaries within 20 business days following the receipt of funds disbursed by SLP.

## BENEFICIARY RESPONSE

The district made every effort to provide the Service Provider with the necessary information such that the Service Provider could meet their responsibilities.

When we [the Beneficiary] contacted Stormwood for this reply, we were told that it had been purchased by CNP. The response from CNP is listed below. Rick Hall is mentioned below, but he is no longer a Stormwood employee and has no authority to address this issue.

[“]CNP will not be able to respond to your request below as we did not purchase Stormwood, Inc., only its assets. Since this appears to have been a Stormwood transaction from 2011, I would ask that you request this statement from Rick Hall who I have copied on this email.

Alternatively, since Stormwood is no longer an operating entity, you could respond to the auditors with that information.[“]<sup>30</sup>

## SERVICE PROVIDER RESPONSE

The Service Provider chose not to respond to IAD directly for a response to this finding. The Beneficiary informed IAD that it had obtained the response from the Service Provider included in the Beneficiary’s response above.

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<sup>30</sup> Email to IAD from Hugh Manning, Glynn County School District Consultant (Mar. 2, 2016).

## CRITERIA

Finding	Criteria	Description
#1	47 C.F.R. § 54.503(a) (2011).	All entities participating in the schools and libraries universal service support program must conduct a fair and open competitive bidding process, consistent with all requirements set forth in this subpart.
#1	<i>Requests for Review of Decisions of the Universal Service Administrator by Conestoga Valley Sch. Dist., CC Docket No. 02-6, Order, 27 FCC Rcd 13167 at para. 3 (2012) (Conestoga Valley Order).</i>	When an applicant discourages prospective service providers from participating in a competitive bidding process, the applicant suppresses fair and open competitive bidding and ultimately damages the integrity of the program.
#1	<i>Request for Review of a Decision of the Universal Service Administrator by Last Mile, Inc., D/B/A Sting Communications and Request for Waiver of the Commission's Rules by Glendale Sch. Dist., CC Docket No. 02-6, Order, 29 FCC Rcd 2909 at para. 4 (2014) (Last Mile Order).</i>	[W]e find that the establishing FCC Form 470... was tainted by Glendale's statement on Line 13b of the form that it intended to continue services under its existing multi-year contract with Sting. Statements such as these are likely to deter other entities from making bids on eligible products or services.... When an applicant discourages prospective service providers from participating in a competitive bidding process, the applicant suppresses fair and open competitive bidding and ultimately damages the integrity of the program.
#2	47 C.F.R. § 54.511(a) (2011).	In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered.
#2	47 C.F.R. § 54.503(c)(1) (2011).	An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall submit a completed FCC Form 470 to the Administrator to initiate the competitive bidding process. The FCC Form 470 and any request for proposal cited in the FCC Form 470 shall include, at a minimum, the following information, to the extent applicable with respect to the services requested:... (ii) Sufficient information to enable bidders to reasonably determine the needs of the applicant.
#2	<i>Request of Review of the Administrator's Decision by Ysleta Ind. Sch. Dist. et al., CC</i>	There may be situations, however, where the price of services is so exorbitant that it cannot, on its face, be cost-effective. For instance, a proposal to sell routers at prices two or three times greater than the prices available from commercial vendors would not be cost effective,

	Docket Nos. 96-45, 97-21, Order, 18 FCC Rd. 26407 at para. 54 (2003) ( <i>Ysleta Order</i> ).	absent extenuating circumstances. We caution applicants and service providers that we will enforce our rules governing cost-effectiveness in order to limit waste in the program.
#3	Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), Oct. 2010 (OMB 3060-0806), at 21 ( <i>FCC Form 471 Instructions</i> ).	Item 21 - Each Funding Request must include a description of the products and services for which discounts are being sought. This description is known as an 'Item 21 Attachment'. The Item 21 Attachment is a detailed and complete narrative description of the products and services contained in the funding request and a line-item listing of the products and/or services requested with their associated costs, including make, model number and location of any equipment.
#3, #4	Instructions for Completing the Universal Service for Schools and Libraries Billed Entity Applicant Reimbursement Form (BEAR) (FCC Form 472), Apr. 2007 (3060-0856), at 6 ( <i>FCC Form 472 Instructions</i> ).	<b>Column (15) – Discount Amount Billed to USAC.</b> The discount amount represents the total amount of funds for which you are seeking reimbursement – that is, your discounted portion of Column (14). Before applying the approved discount percentage to the amount in Column (14), you must deduct charges for any ineligible services, or for eligible services delivered for ineligible recipients or used for ineligible purposes.
#4	47 C.F.R. § 54.504(d)(2) (2011).	In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service.
#4	<i>Schools and Libraries Universal Service Support Mechanism</i> , CC Docket No. 02-6, Third Report and Order, 18 FCC Rcd 26912 at para. 42 (2003) ( <i>Third Report and Order</i> ).	We will permit applicants to substitute an eligible service with a higher pre-discount price, but will provide support based on the lower, original price, rather than the higher price for the substituted service.
#4	<i>FCC Form 472 Instructions</i> , at 6.	<b><u>Block 3 Billed Entity Certification</u></b>  The Billed Entity must sign the Certification to confirm:...  C. The discount amounts listed in Column (15) of this Form are for eligible services approved by the fund administrator pursuant to a Funding Commitment Decision Letter.
#5	47 C.F.R. § 54.507(d) (2011).	Schools, libraries, and eligible consortia must use recurring services for which discounts have been committed by the Administrator within the funding year for which the discounts were sought. The deadline for implementation of non-recurring services will be September 30 following the close of the funding year. An applicant may request and

		receive from the Administrator an extension of the implementation deadline for non-recurring services...
#5	<i>FCC Form 472 Instructions</i> at 6.	<p><b><u>Block 3 Billed Entity Certification</u></b></p> <p>The Billed Entity must sign the Certification to confirm:</p> <p>A. The discount amounts listed in Column (15) of this Form represent charges for eligible services delivered to and used by eligible schools, libraries, or consortia of those entities for educational purposes, on or after the service start date reported on the associated [FCC] Form 486.</p>
#5	47 C.F.R. § 54.504(a)(2011).	Filing of the FCC Form 471. An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. A commitment of support is contingent upon the filing of an FCC Form 471.
#6, #7	47 C.F.R. § 54.514(b) (2011).	Service providers that receive discount reimbursement checks from the Administrator after having received full payment from the billed entity must remit the discount amount to the billed entity no later than 20 business days after receiving the reimbursement check.
#6, #7	47 C.F.R. § 54.514(a) (2011).	Service providers providing discounted services under this subpart in any funding year shall, prior to the submission [of] the [FCC] Form 471, permit the billed entity to choose the method of payment for the discounted services from those methods approved by the Administrator, including by making a full, undiscounted payment and receiving subsequent reimbursement of the discount amount from the service provider.